

ESTTA Tracking number: **ESTTA561078**Filing date: **09/24/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

| | |
|---------------------------------------|--|
| Name | Brown-Forman Corporation |
| Granted to Date of previous extension | 12/04/2013 |
| Address | 850 Dixie Highway Louisville, KY 40210 UNITED STATES |
| Attorney information | Christopher C. Larkin Seyfarth Shaw LLP 2029 Century Park East, Suite 3500 Los Angeles, CA 90067-3021 UNITED STATES clarkin@seyfarth.com, kelko@seyfarth.com Phone:(310) 277-7200 |

Applicant Information

| | | | |
|------------------------|---|------------------------|------------|
| Application No | 85898093 | Publication date | 08/06/2013 |
| Opposition Filing Date | 09/24/2013 | Opposition Period Ends | 12/04/2013 |
| Applicant | TERRESSENTIA CORPORATION 9770 PATRIOT BLVD, SUITE 300 LADSON, SC 29456 UNITED STATES | | |

Goods/Services Affected by Opposition

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|--|
| Class 033. All goods and services in the class are opposed, namely: Alcoholic beverages except beers; Alcoholic beverages, namely, flavor-infused whiskey; Alcoholic beverages, namely, whiskey, bourbon, vodka, gin, tequila; Blended spirits; Distilled Spirits; Distilled spirits of corn, rye, barley |
|--|

Grounds for Opposition

| | |
|--------------------------------------|---|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
| Other | Lack of bona fide intention to use mark in Commerce - Trademark Act section 1051(b) |

Mark Cited by Opposer as Basis for Opposition

| | | | |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 2078403 | Application Date | 08/02/1995 |
| Registration Date | 07/15/1997 | Foreign Priority Date | NONE |

| | |
|---------------------|---|
| Word Mark | WOODFORD RESERVE |
| Design Mark | |
| Description of Mark | NONE |
| Goods/Services | Class 033. First use: First Use: 1996/04/30 First Use In Commerce: 1996/10/10 whiskey |

| | |
|-------------|---|
| Attachments | Notice of Opposition.pdf(360722 bytes) |
|-------------|---|

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

| | |
|-----------|-------------------------|
| Signature | /Christopher C. Larkin/ |
| Name | Christopher C. Larkin |
| Date | 09/24/2013 |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/898,093
Published in the Official Gazette of August 6, 2013

BROWN-FORMAN CORPORATION,

Opposer,

v.

TERRESSENTIA CORPORATION,

Applicant.

Opposition No.: _____

NOTICE OF OPPOSITION

Opposer Brown-Forman Corporation (“Opposer”) believes that it will be damaged by registration of the mark shown in Application Serial No. 85/898,093, and hereby opposes the same. As grounds for opposition, Opposer alleges as follows:

1. Opposer is a Delaware corporation with offices in Louisville, Kentucky.
2. Upon information and belief, applicant Terressentia Corporation (“Applicant”) is a South Carolina corporation with an address of record in Ladson, South Carolina.
3. On April 11, 2013, Applicant filed Application Serial No. 85/898,093 (the “Opposed Application”) to register the mark BEDFORDS RESERVE on the Principal Register for goods identified in the Opposed Application as “Alcoholic beverages except beers; alcoholic beverages, namely, flavor-infused whiskey; alcoholic beverages, namely, whiskey, bourbon, vodka, gin, tequila; blended spirits; distilled spirits; distilled spirits of corn, rye, barley” on the basis of Applicant’s alleged intention to use the mark in commerce. Upon information and belief, Applicant has never intended to use the mark shown in the Opposed Application in

connection with each and all of the goods identified in the Opposed Application from the time of filing of the Opposed Application to the present.

4. On September 19, 2013, after publication of the Opposed Application for opposition and after Opposer obtained an extension of time to oppose the Opposed Application and contacted Applicant, Applicant filed a proposed amendment of the drawing of the mark in the Opposed Application to render it as BEDFORD'S HANDCRAFTED BOURBON WHISKEY rather than as BEDFORDS RESERVE. As of the filing of this Notice of Opposition, the Patent and Trademark Office has not acted on the proposed amendment.

5. From a time long prior to the filing date of the Opposed Application, or any earlier date of actual use of the mark shown in the Opposed Application upon which Applicant can rely, and continuously to the present, Opposer has used the mark WOODFORD RESERVE in the United States in connection with bourbon whiskey, and a variety of other goods and services. Upon information and belief, Applicant was aware of Opposer's WOODFORD RESERVE mark when Applicant selected the mark shown in the Opposed Application.

6. Opposer owns United States Trademark Registration No. 2,078,403 for the mark WOODFORD RESERVE for whiskey. This registration is valid and subsisting and has become incontestable. A copy of the record of this registration taken from the TSDR electronic database of the Patent and Trademark Office and showing its current status and title is attached hereto as Exhibit 1.

7. Applicant's use of the mark BEDFORD RESERVE in connection with whiskey, bourbon, distilled spirits, and the other goods identified in the Opposed Application is likely to cause consumers of such goods to believe mistakenly that they originate with, or are sponsored,

licensed, or authorized by or otherwise affiliated with, the owner of the WOODFORD RESERVE mark.

FIRST CLAIM FOR RELIEF
(Likelihood of Confusion With Registered Trademark)

8. Opposer repeats and realleges the allegations in preceding paragraphs 1-7 as if fully set forth herein.

9. The mark shown in the Opposed Application so resembles Opposer's registered WOODFORD RESERVE trademark as to be likely, when used on or in connection with the goods identified in the Opposed Application, to cause confusion, to cause mistake, or to deceive, and Applicant's mark is thus unregistrable under § 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d).

10. Opposer will be damaged by registration of the mark shown in the Opposed Application because such registration will give Applicant prima facie evidence of ownership of and the exclusive right to use a mark that is confusingly similar to Opposer's registered mark, in derogation of Opposer's rights in its registered mark.

SECOND CLAIM FOR RELIEF
(Likelihood of Confusion with Previously-Used Trademark)

11. Opposer repeats and realleges the allegations in preceding paragraphs 1-7 as if fully set forth herein.

12. The mark shown in the Opposed Application so resembles the WOODFORD RESERVE mark previously used by Opposer in the United States and not abandoned, as to be likely, when used on or in connection with the goods identified in the Opposed Application, to cause confusion, to cause mistake, or to deceive, and Applicant's mark is thus unregistrable under § 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d).

13. Opposer will be damaged by registration of the mark shown in the Opposed Application because such registration will give Applicant prima facie evidence of ownership of and the exclusive right to use a mark that is confusingly similar to Opposer's previously-used and not abandoned mark, in derogation of Opposer's rights in its mark.

THIRD CLAIM FOR RELIEF
(Lack of *Bona Fide* Intention to Use Mark in Commerce)

14. Opposer repeats and realleges the allegations in preceding paragraphs 1-7 as if fully set forth herein.

15. Applicant has lacked a *bona fide* intention to use the mark shown in the Opposed Application in connection with each and all of the goods identified therein since the filing of the Opposed Application up until the present, and Applicant's mark is thus unregistrable under § 1(b) of the United States Trademark Act, 15 U.S.C. § 1051(b).

16. Opposer will be damaged by registration of the mark shown in the Opposed Application because such registration will give Applicant prima facie evidence of ownership of and the exclusive right to use a mark that is confusingly similar to Opposer's mark, in derogation of Opposer's rights in its mark.

WHEREFORE, opposer Brown-Forman Corporation prays for judgment sustaining this opposition and refusing registration to the mark shown in the Opposed Application.

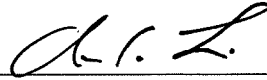
Please charge the filing fees for this opposition to Deposit Account No. 50-2291 and direct all correspondence and communication in this opposition to the undersigned.

Respectfully submitted,

SEYFARTH SHAW LLP

Dated: September 24, 2013

By:



Christopher C. Larkin

Attorneys for Opposer

BROWN-FORMAN CORPORATION

2029 Century Park East

Suite 3500

Los Angeles, CA 90067-3021

Telephone: (310) 277-7200

Facsimile: (310) 201-5219

EXHIBIT 1

Generated on: This page was generated by TSDR on 2013-09-24 13:53:00 EDT

Mark: WOODFORD RESERVE

US Serial Number: 74710081
US Registration Number: 2078403
Register: Principal
Mark Type: Trademark
Status: The registration has been renewed.
Status Date: Mar. 24, 2007
Publication Date: Apr. 22, 1997

Application Filing Date: Aug. 02, 1995
Registration Date: Jul. 15, 1997

Mark Information

Mark Literal Elements: WOODFORD RESERVE
Standard Character Claim: No
Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)
Disclaimer: "RESERVE"

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: whiskey
International Class(es): 033 - Primary Class
Class Status: ACTIVE
Basis: 1(a)
First Use: Apr. 30, 1996

U.S Class(es): 047, 049
Use in Commerce: Oct. 10, 1996

Basis Information (Case Level)

| | | |
|---------------------------|-------------------------------|------------------------|
| Filed Use: No | Currently Use: Yes | Amended Use: No |
| Filed ITU: Yes | Currently ITU: No | Amended ITU: No |
| Filed 44D: No | Currently 44D: No | Amended 44D: No |
| Filed 44E: No | Currently 44E: No | Amended 44E: No |
| Filed 66A: No | Currently 66A: No | |
| Filed No Basis: No | Currently No Basis: No | |

Current Owner(s) Information

Owner Name: Brown-Forman Corporation
Owner Address: 850 Dixie Highway
Louisville, KENTUCKY 40210
UNITED STATES
Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Attorney/Correspondence Information

Attorney Name: DAVID S. GOODER
Attorney of Record
Docket Number: BF-1657

EXHIBIT 1

| Correspondent | |
|------------------------------------|--|
| Correspondent Name/Address: | DAVID S GOODER BROWN-FORMAN BRANDS 4040 CIVIC CTR DR SUITE 528 SAN RAFAEL, CALIFORNIA 94903 UNITED STATES |

Domestic Representative - Not Found

Prosecution History

| Date | Description | Proceeding Number |
|---------------|--|-------------------|
| Mar. 24, 2007 | REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS) | 59807 |
| Mar. 24, 2007 | REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED | |
| Mar. 22, 2007 | ASSIGNED TO PARALEGAL | 59807 |
| Feb. 07, 2007 | REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED | |
| Mar. 14, 2007 | CASE FILE IN TICRS | |
| Feb. 07, 2007 | TEAS SECTION 8 & 9 RECEIVED | |
| Oct. 05, 2002 | REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. | |
| Aug. 29, 2002 | REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED | |
| Aug. 29, 2002 | TEAS SECTION 8 & 15 RECEIVED | |
| Jul. 15, 1997 | REGISTERED-PRINCIPAL REGISTER | |
| Apr. 22, 1997 | PUBLISHED FOR OPPOSITION | |
| Mar. 21, 1997 | NOTICE OF PUBLICATION | |
| Jan. 30, 1997 | APPROVED FOR PUB - PRINCIPAL REGISTER | |
| Jan. 30, 1997 | USE AMENDMENT ACCEPTED | |
| Jan. 30, 1997 | ASSIGNED TO EXAMINER | 71996 |
| Jan. 29, 1997 | ASSIGNED TO EXAMINER | 71996 |
| Jan. 27, 1997 | AMENDMENT TO USE PROCESSING COMPLETE | |
| Oct. 23, 1996 | USE AMENDMENT FILED | |
| Apr. 04, 1996 | NON-FINAL ACTION MAILED | |
| Mar. 22, 1996 | NON-FINAL ACTION MAILED | |
| Mar. 14, 1996 | ASSIGNED TO EXAMINER | 69967 |

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Jul. 15, 2007

TM Staff and Location Information

| TM Staff Information - None | |
|--|--|
| File Location | |
| Current Location: POST REGISTRATION | Date in Location: Mar. 24, 2007 |

Proceedings

| Summary | |
|--|----------------------------------|
| Number of Proceedings: 1 | |
| Type of Proceeding: Cancellation | |
| Proceeding Number: 92043150 | Filing Date: Mar 25, 2004 |
| Status: Terminated | Status Date: Dec 01, 2005 |
| Interlocutory Attorney: ANGELA LYKOS | |
| Defendant | |

EXHIBIT 1

Name: BARTON BRANDS, LTD.

Correspondent Address: BARTON BRANDS, LTD.
55 E. MONROE ST., STE. 2600
CHICAGO IL , 60603

| Associated marks | | | |
|-------------------|------------------------|--------------------------|-------------------------|
| Mark | Application Status | Serial Number | Registration Number |
| RIDGEWOOD RESERVE | Cancelled - Section 18 | 76474667 | 2813958 |
| Plaintiff(s) | | | |

Name: Brown-Forman Corporation

Correspondent Address: STEVEN M. WEINBERG
GREENBERG TRAURIG, LLP
2375 EAST CAMELBACK ROAD - SUITE 700
PHOENIX AZ , 85016

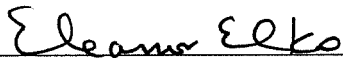
| Associated marks | | | |
|------------------|--------------------|--------------------------|-------------------------|
| Mark | Application Status | Serial Number | Registration Number |
| WOODFORD RESERVE | Renewed | 74710081 | 2078403 |

| Prosecution History | | | |
|---------------------|--|--------------|--------------|
| Entry Number | History Text | Date | Due Date |
| 1 | FILED AND FEE | Mar 25, 2004 | |
| 2 | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Apr 12, 2004 | May 22, 2004 |
| 3 | PENDING, INSTITUTED | Apr 12, 2004 | |
| 4 | NOTICE OF DEFAULT | Aug 12, 2005 | |
| 5 | BOARD'S DECISION: GRANTED | Oct 12, 2005 | |
| 6 | COMMISSIONER'S ORDER CANCELLING THE REGISTRATION | Nov 30, 2005 | |
| 7 | TERMINATED | Nov 30, 2005 | |

CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2013, I served the foregoing Notice of Opposition on the applicant by mailing a copy thereof by First Class Mail, postage prepaid, addressed to applicant at its correspondence address of record in the records of the Patent and Trademark Office as follows:

Terressentia Corporation
9770 Patriot Blvd., Suite 300
Ladson, SC 29456-6703



Eleanor Elko